IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

Crl.MC.No. 3552 of 2007()

AGAINST THE ORDER IN CRMP.2222/2007 IN
CRA.571/2007 of ADDL. SESSIONS COURT-II, MAVELIKKARA
CC.503/2005 of JUDL.MAGISTRATE OF FIRST CLASS, MAVELIKKARA

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PETITIONER:

T.C.SARALA DEVI, AGED 48, W/O.
LATE SRI,VISWANATHAN, VIJAYAMANGALATHU,
KURUMBUKKARA, ADOOR.

BY ADV. SRI.N.SURESH
SRI.JIJI MATHEW

RESPONDENTS:
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1. SIVANKUTTY.K., JAYABHAVANAM,
KOTTAKKATTUSSERI, THAMARAKULAM.

2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

R2 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 27/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 3552 of 2007

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Dated this the 27th day of November, 2007

O R D E R

The petitioner, a woman, has been found guilty, convicted and sentenced in a prosecution under Section 138 of the N.I. Act. The cheque is for an amount of Rs. 4 lakhs. The petitioner has been directed to pay an amount of Rs. 2 lakhs as compensation. Default sentence has also been imposed. Sentence was suspended by the Sessions Judge subject to conditions in the appeal preferred by her.

2. According to the petitioner, her financial condition is such that she is unable to raise an amount of Rs.20,000/- and pay the same to avoid execution of the sentence. If rigid insistence on compliance of the said condition were made, that would result the petitioner being compelled to undergo the sentence even before her appeal is considered on merits. In these circumstances it is prayed that the condition of deposit of Rs.20,000/- may be set aside.

3. I have heard the learned counsel for the petitioner. The learned counsel laments about the very unsatisfactory financial

position of the petitioner. After discussions at the Bar, the learned counsel agrees that the petitioner shall some how deposit an amount of Rs.5,000/- if reasonable further time is given. In the alternative the Sessions Judge may be directed to dispose of the appeal itself within a stipulated period of time, submits the counsel.

4. Having considered all the relevant inputs, I am satisfied that appropriate directions can be issued under Section 482 Cr.P.C.

5. This Crl.M.C. is allowed. The following directions are issued.

(1) The petitioner shall on or before 18.12.2007 deposit an amount of Rs.5,000/- before the Sessions Judge. If she so deposits, the learned Sessions Judge shall grant the petitioner time till 18.1.2008 to deposit the balance amount of Rs.15,000/-

(2) If the petitioner thinks that she will not be able to raise the balance amount of Rs.15,000/- the petitioner shall apply to the learned Sessions Judge on or before 18.12.2007 for expeditious out of turn disposal of the appeal in which event the learned Sessions Judge

must dispose of the appeal itself by 18.1.2008. All necessary steps to be taken in the appeal must be taken by the petitioner forthwith.

(R. BASANT)
Judge

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